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T 55 11UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
TOBACCO SECTIONINSTRUCTIONS FOR STATE AND COUNTY OFFICES IN CONNECTION
WITH THE HANDLING OF CLAIMS FOR REFUND OF PENALTY AND THE
PREPARATION OF FORMSGeneral Instructions

Any person who desires to file a claim for refund of any sum of money erroneously, illegally, or wrongfully collected as penalty with respect to marketing of tobacco should file such claim with the county office of the agricultural conservation association of the county in which the farm on which the tobacco was produced is located. The claimant should furnish the county office with full and complete information concerning the sale of tobacco with respect to which claim is made; the names, addresses, and proportionate shares in the tobacco and in the amount claimed, of all persons who had an interest in the purchase price paid for the tobacco and who bore the burden of the penalty; and the reasons why such penalty is claimed to have been erroneously, illegally, or wrongfully collected.

All such claims shall be made on Form 38-Tobacco 48, Claim for Refund of Penalty, which may be prepared in the county office.

Preparation of Forms

A separate Form 38-Tobacco 48 should be executed for each memorandum of sale written to record the collection of penalty for which a refund is claimed in whole or in part.

All spaces for entries on the form through paragraph 3 should be filled in, except the date penalty was paid to the Agricultural Adjustment Administration. There should be entered, in the space provided in the first line following the title, the total amount claimed with respect to the memorandum of sale described on Form 38-Tobacco 48. This figure may or may not be equal to the amount of penalty as shown on the memorandum of sale.

Paragraph 1. Following is the kind of data which should be entered in this paragraph and the source from which the data may be obtained. Information should be obtained from memorandum of sale when available:

1. Serial number of memorandum of sale (from copy of memorandum of sale, tobacco marketing card, or in most cases from the warehouse bill).

2. Name of operator (from the memorandum of sale or the tobacco marketing card).
3. Name and address of the warehouseman, dealer, or other purchaser who paid the penalty to the Secretary of Agriculture (from memorandum of sale, warehouse bill or bill of sale).
4. Date of sale (from memorandum of sale or warehouse bill).
5. Sale Subject to Penalty - pounds, gross price and penalty from the memorandum of sale (or, if not available), from the warehouse bill.

Paragraph 2. The statements of claimant should explain fully why the penalty was erroneously, illegally, or wrongfully collected. If the space provided on the form is not adequate for the claimant's statements a separate sheet may be used and should be attached to the claim. All pertinent documents such as warehouse bill of sales, tobacco marketing cards, affidavits, canceled checks, etc., should be attached to the claim.

Paragraph 3. Type or print (in ink or indelible pencil) the names and addresses of all persons who had an interest in the tobacco sold subject to penalty and who are entitled to share in the proceeds of the claim. Enter in the appropriate column, following the name and address of each claimant, the proportionate share of each claimant in pounds and in dollars. These entries will serve as a basis for distribution of the proceeds. The sum of all claimants shares should equal the amount of refund applied for above.

Paragraph 4. If no trustee is appointed by the claimants, the word "None" should be entered in the space for name and address. Where there is more than one claimant and all the claimants desire to appoint a trustee to receive and disburse any payment to be made to them with respect to the claim, such trustee should be appointed by the claimants. One of the claimants may be appointed as trustee.

If a trustee is appointed, such person should execute the Declaration of Trust in the space provided below. The name and address of the designated trustee should be entered in the space provided in this paragraph.

Paragraph 5. Claimants should sign the form in the order and in the form in which their names appear in paragraph 3. Signatures should be subscribed in accordance with the procedure outlined in ACP-16, "Instructions on Signatures and Authorizations." Any signature subscribed by mark will not require a separate witness. If, for any reason it is not possible to obtain the signatures of all persons listed in Paragraph 3, the claim should be transmitted for consideration with respect to the interests of the signatories.

Certificate of Operators. If the operator's signature appears above in Paragraph 5, the Certificate of Operator should not be executed. Where the claim is made by a producer other than an operator, the Certificate of Operator should be executed by the person who was the operator of the farm at the time of the sale of the tobacco with respect to which claim is made.

Certificate of County Committee. One county committeeman, on behalf of the county committee, should execute this certificate to indicate approval by the committee with respect to the following:

1. The identity of the claimants.
2. The interest of each claimant in the tobacco and in the proceeds of the claim.
3. The correctness of the data and representations upon which the claim is based.

If the county committee determines that it cannot approve the claim in any or all respects, the committee should so indicate its disapproval by preparing a detailed statement of its reasons for disapproval on a separate sheet of paper which should be attached to the claim. In any event, the claim should be transmitted to the State office.

Claims Other Than by Producer

In some instances claims may be filed by persons other than producers, such as warehousemen, dealers, etc. Claims of this nature will be made on Form 38-Tobacco 48 with the following qualifications:

1. Such claims may be filed in any county office without regard to the location of the farm upon which the tobacco was grown.
2. If the claim is based on data not identifiable with specific sales of tobacco, it will not be necessary to execute Paragraph 1 of the form, however, the reasons should be fully stated in Paragraph 2.
3. Acceptable evidence should be submitted that the penalty was paid by the claimant, and that the burden thereof was not shifted to the producer.

Transmittal of Forms 38-Tobacco 48

1. At the end of each week, the county office shall list on Form 38-Tobacco 49, "Transmittal Sheet", all Forms 38-Tobacco 48 that have been properly executed and filed with the county office.

2. The county office shall retain the yellow copy, Form 38-Tobacco 49(c) and shall transmit the remaining copies of Form 38-Tobacco 49, together with Forms 38-Tobacco 48, to the State office.
3. The State office shall retain the salmon copy, Form 38-Tobacco 49(b) and shall forward the remaining Forms 38-Tobacco 49, together with the related Forms 38-Tobacco 48, to the Tobacco Section, Agricultural Adjustment Administration, Washington, D. C.
4. The Tobacco Section will indicate receipt of the claims on the green copy (49(a)), which will be returned to the county office for their record.

Record of Claims

The county office should keep a record of claims filed, including a copy or summary of each claim; the yellow copy, Form 38-Tobacco 49(c), and all pertinent data submitted by claimants in support of their claims.